# UNITED STATES PATENT AND TRADEMARK OFFICE

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| 10/642,702 | 08/18/2003 | Vivek Jaiswal | P16507 | 4365 |

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| EXAMINER |
|---|
| PATEL, CHIRAG R |

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| 2141 | |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

| | Application No. | Applicant(s) |
|---|---|---|
| **Office Action Summary** | 10/642,702 | JAISWAL ET AL. |
| | Examiner | Art Unit | |
| | Chirag R. Patel | 2141 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on <u>11 July 2007</u>.

2a)☒ This action is **FINAL**.    2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) <u>1-21</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-21</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All  b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

### *Response to Arguments*

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ton (US 2002/0067704) in view of Bays (US 2002/0141343) and O'Neill et al. – hereinafter O'Neill (US 6,790,445).

As per claims 1, 7, 14, and 19, Ton discloses a method of communicating load, comprising:

determining a load on a first node; ([0043])

factoring the load into a Q-value for the first node; ([0042])

and transmitting the Q-value to a second node via one or more load brokers where each load broker is  a back-to-back user agent. ([0043])

where the Q-value is based on (2) a number of calls or an amount of information

being processed for a call. ([0042] The load information could be the number of mobility

bindings (i.e. the number of registered Mobile Nodes))

Ton fails to disclose session initiation protocol and where the Q-Value is an

integer value based on both (1) a contact priority and (2) a number of calls or an amount

of information being processed for a call;   O'Neill discloses session

initiation protocol. (Col 1 line 65 – Col 2 line 33)    Bays discloses where the Q-value is

an integer value based on 1) contact priority. ([0053]) At the time the invention was

made, it would have been obvious to a person of ordinary skill in the art to disclose

session initiation protocol and where the Q-Value is an integer value based on both (1)

a contact priority in the disclosure of Ton.  The motivation for doing do would have been

to assist in session establishment, enforce policies, or support user agent mobility. SIP

mobility support mechanisms allow a user agent to maintain reachability by registering

its present location information with a SIP server in its home network and to support

services such as Voice over IP in cellular data network.  (O'Neill; Col 1 line 65 – Col 2

line 33) and to allow for dynamic modification of routing policy based on such factors as

current Internet performance, load sharing, user-defined parameters, and time of day.

(Bayss [0006])


As per claim 2, Ton/ O'Neill/ Bays disclose the method of claim 1.  Ton further

comprising the first node subscribing to a load factor exchange service in a message

transmitted to the second node.  ([0043],[0049])

As per claim 3, Ton/O'Neill / Bays disclose the method of claim 2. Ton discloses further comprising the second node confirming receipt of the subscription in a message transmitted to the first node. ([0043],[0049])

As per claim 4, Ton/O'Neill / Bays disclose the method of claim 1. Ton discloses further comprising: a third node requesting the Q-value for the first node from the second node; and the second node transmitting the Q-value for the first node to the third node. ([0043],[0049])

As per claim 5, Ton/O'Neill/ Bays disclose the method of claim 4. Ton discloses wherein the second node also transmits Q-values for a plurality of alternate nodes to the third node. ([0043],[0049])

As per claim 6, Ton/O'Neill/ Bays disclose the method of claim 5. Ton discloses further comprising the third node utilizing the one of the first node and the alternate nodes having the lowest Q-value as an intermediate node. ([0025])

As per claim 8, Ton / O'Neill/ Bays disclose the article of manufacture of claim 7. Ton discloses wherein the instructions are to cause the processor to transmit the load for the first node and the load for the second node to the transmitting node in the session initiation protocol Q-value. ([0043],[0049])

As per claim 9, Ton/ O'Neill/ Bays disclose the article of manufacture of claim 8.

Ton discloses wherein the transmitting node is to transmit the information to the least

loaded of the first node and the second node. ([0040])


As per claim 10, Ton / O'Neill/ Bays disclose the article of manufacture of claim

7. Ton discloses wherein the instructions are to cause the information to be redirected

from the first node to the second node when the second node becomes less loaded

than the first node. ([0045])


As per claims 11 and 16, Ton / O'Neill/ Bays disclose the article of manufacture

of claim 7. Ton discloses wherein load is based on at least one metric including call

capacity of the first and second nodes, processing capability of the first and second

nodes, network bandwidth at the first and second nodes, and network availability of the

first and second nodes. ([0042])


As per claims 12 and 17, Ton/ O'Neill/ Bays disclose the article of manufacture of

claim 11. Ton discloses wherein the metrics of the first and second nodes are weighted

based on the capacity of the nodes for that metric. ([0042])


As per claim 13, Ton/ O'Neill/ Bays disclose the article of manufacture of claim 7.

Ton discloses wherein the instructions are further to cause the processor to receive a

subscription from the transmitting node and at least one second transmitting node, and wherein the load for at least one of the first node and the second node is caused to be transmitted to subscribing nodes upon request. ([0043],[0044])


As per claim 15, Ton/ O'Neill/ Bays disclose the session initiation protocol device of claim 14. Ton discloses wherein the calculation module is furthermore to provide loads for a plurality of session initiation protocol entities to the querying entity. ([0043],[0049])


As per claim 18, Ton/ O'Neill/ Bays disclose the networked system of claim 14. Ton discloses wherein the load of the session initiation protocol entity is transmitted to the querying entity as a factor in a Q-value. ([0043],[0049])


As per claim 20, Ton / O'Neill/ Bays disclose the location service of claim 19. Ton fails discloses wherein the processor is to retrieve the load factor associated with at least one of the session initiation protocol entities when requested to do so by a requesting session initiation protocol entity and transmit that load information to the requesting session initiation protocol entity through the network adaptor. ([0043],[0049])


As per claim 21, Ton/ O'Neill/ Bays disclose the location service of claim 20, and Ton discloses wherein the load factor is transmitted as a factor in a Q-value. ([0042])

### *Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag R Patel whose telephone number is (571)272-7966. The examiner can normally be reached on Monday to Friday from 7:30AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information

for published applications may be obtained from either Private PAIR or Public

PAIR.  Status information for unpublished applications is available through

Private PAIR only.  For more information about the PAIR system, see

http://pairdirect.uspto.gov.  Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197

(toll free).

Chirag Patel
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AU 2141

C.P.   C. P.

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER